

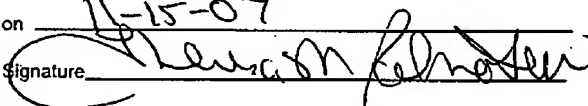
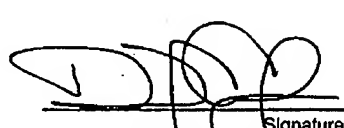
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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 60,469-234; PA000.05276US	
CERTIFICATE OF FACSIMILE I hereby certify that this Pre-Appeal Brief Request For Review and Notice of Appeal are being facsimile transmitted to (571) 273-8300. on <u>11-15-07</u> Signature <u></u> Typed or printed name <u>Theresa M. Palmateer</u>		Application Number 10/550,927	Filed 09/28/2005
		First Named Inventor Frank Sansevero	
		Art Unit 3651	Examiner Prakasam, Ramya G.
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>37,139</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		 Signature <u>David J. Gaskey</u> Typed or printed name <u>248-988-8360</u> Telephone number <u>15 NOV 2007</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

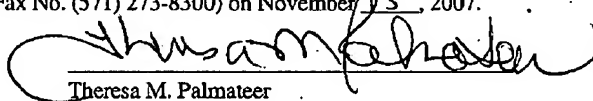
This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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I hereby certify that this Notice of Appeal, relative to Application Serial No. 10/550,927 is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on November 15, 2007.


Theresa M. Palmateer

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: Frank Sansevero
Serial No.: 10/550,927
Filed: 09/28/2005
Group Art Unit: 3651
Examiner: Prakasam, Ramya G.
For: COMBINED TRAFFIC FLOW AND MAINTENANCE
INFORMATION DISPLAY FOR A PASSENGER CONVEYOR

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant submits this Request for Pre-Appeal Brief Review because there is no *prima facie* case of anticipation or obviousness against any of Applicant's claims.

**Rejection of Claims 1-2, 8, 10-11, 13-15, 20 and 29
under 35 U.S.C. §102(b) must be withdrawn**

The Examiner relies upon the *Mehlert* reference as teaching a display that provides a visible indication of a direction of movement of a conveyor by relying upon the traffic light 36 that "indicates which direction can enter the conveyor." The Examiner then points to the same element as "a variable, visible indication of maintenance information regarding the conveyor (44 - display markings to indicate operational status)." There is no *prima facie* case of anticipation because the Examiner is not pointing to two different visible indications as providing indications of a direction of movement on the one hand and an indication of maintenance information on the other hand. Applicant's claim 1, for example, specifically recites two different visible indications. The Examiner relies upon the same visible indication in the *Mehlert* reference (e.g.,

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the traffic light 36 on the display 44) as allegedly anticipating both of Applicant's visible indications. Without two different visible indications, there is no anticipation.

Claim 29 specifically recites distinct and separate indications. There is no reasonable interpretation of *Mehlert's* single traffic light 36 that satisfies claim 29.

Additionally, the Examiner improperly contends that the display 44 of the *Mehlert* reference provides a visible indication of maintenance information. In column 3, beginning at line 46, the *Mehlert* reference describes the display 44 as "having markings to indicate the operational status of the escalator 12. For instance, the traffic light 36 may include a red colored horizontal line and a green arrow. The horizontal line is used to indicate that the escalator 12 is operating in a direction opposite to the passengers approaching the face of the traffic light 36, or that the escalator 12 has been stopped. The green arrow is used to indicate that the escalator 12 is operating and the direction of operation of the escalator 12." The Examiner improperly contends that this constitutes "maintenance information" because it "provides the operational status of the conveyor, including whether the conveyor is currently running or whether it is stopped." That is not a reasonable interpretation of maintenance information as that term is used in Applicant's application.

MPEP 2111 does allow the Patent Office to give claims their broadest, reasonable interpretation. This does not allow for disregard, however, of Applicant's specification and the meaning that a term would have to a person of ordinary skill in the art. MPEP 2111 requires that the broadest reasonable interpretation be "consistent with the specification" and "must also be consistent with the interpretation that those skilled in the art would reach."

Applicant's maintenance information is something other than an indicator to a passenger whether a conveyor is moving in a particular direction or not moving at all. Maintenance information is something else and provides information to a mechanic or maintenance technician, for example, regarding the conveyor. One skilled in the art of passenger conveyors who understands what type of maintenance information is typically used for servicing such a conveyor would not consider an indication of a direction of movement or non-movement to be "maintenance information." Therefore, the Examiner's interpretation is not reasonable consistent with the requirements of MPEP 2111.

Additionally, Applicant's specification must be consulted to determine what a reasonable interpretation of "maintenance information" would be. On page 4 of Applicant's specification,

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beginning at line 16, examples of maintenance information are provided including "hours of operation, energy consumption, maintenance history and fault code indicators such as the fault codes used in the event that there is an interruption in operation." It follows that the Examiner's interpretation of "maintenance information" does not take into account Applicant's specification and, therefore, is not reasonable according to MPEP 2111.

It follows that the *Mehlert* reference does not anticipate any of Applicant's claims because it does not include a display of maintenance information as required by Applicant's claims. The rejection under 35 U.S.C. §102(b) must be withdrawn.

The rejection of Claims 3, 12, 16 and 22 under 35 U.S.C. §103 must be withdrawn

The Examiner proposes to combine the *Mehlert* and *Williams* references for rejecting claims 3, 12, 16 and 22. That combination cannot be made and there is no *prima facie* case of obviousness. There would be no benefit to adding the information from the monitor display 246 of the *Williams* reference to the display of *Mehlert*, which is intended to display information for passengers. The type of information discussed in the *Williams* reference is not useful to a passenger of an escalator and, therefore, would not be useful on *Mehlert's* display, which is expressly described as being intended to convey information of interest to passengers. Without any benefit to making the proposed combination, the legally required reason for the proposed combination is absent and there is no *prima facie* case of obviousness. The information from the *Williams* reference does not provide any benefit in the context of the *Mehlert* reference and Applicant's specification cannot be used for hindsight reasoning as an alleged basis for combining the references. The rejection based upon *Mehlert* and *Williams* must be withdrawn.

The rejection of Claims 9, 21, 23-27 and 30 under 35 U.S.C. §103 must be withdrawn.

The Examiner proposes to combine the *Mehlert* and *Zaharia* references when rejecting claims 9 and 21. The teachings of the *Zaharia* reference have no usefulness in the context of the *Mehlert* reference and provide no benefit to *Mehlert's* device. Therefore, the proposed combination cannot be made. The transmitters in the *Zaharia* reference are intended to provide information to an escalator to take action responsive to activation of a safety device. Such

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information is of no use to the display of *Mehlert* because that display does not have any responsibility for controlling operation of the escalator. Therefore, the signals provided by the *Zaharia* transmitters do not have any reason to be sent to the display of *Mehlert* and, therefore, there is no benefit to making the proposed combination. Without any benefit, the combination cannot be made and there is no *prima facie* case of obviousness.

Regarding claims 23-27, there is no *prima facie* case of obviousness because even if the combination could be made, the result is not the same as what is recited in those claims. Claims 23-27 each include a transmitter that allows for manually controlling the display. None of the transmitters in the *Zaharia* reference are described as allowing an individual to manually control a display. Therefore, even if that combination were made, there is no *prima facie* case of obviousness against claims 23-27 because the combination does not result in the claimed arrangement.

Regarding claim 30, that claim specifically recites separate and distinct visible indications. As discussed above, *Mehlert* does not have separate and distinct visible indications. The Examiner relies upon the same traffic light 36 display 44 for both visible indications. The same traffic light display cannot be separate and distinct from itself and there is no *prima facie* case of obviousness against claim 30.

The rejection of Claim 28 under 35 U.S.C. §103 must be withdrawn.

The Examiner proposes to combine the *Mehlert* and *Saito* references when rejecting claim 28. The combination cannot be made because MPEP 2143.01(V) and (VI) prohibits such a combination. The *Mehlert* reference is specifically intended to provide a display device that is separate from the passenger conveyor and positioned at a location apart from the conveyor to achieve *Mehlert's* stated objectives. If one were to modify the *Mehlert* reference to put *Mehlert's* display on the passenger conveyor structure, that would interfere with *Mehlert's* ability to achieve its intended purpose, which is expressly stated as providing a display separate from the conveyor structure. Additionally, that modification would change the principle of operation of the *Mehlert* reference because it would incorporate a display on the conveyor rather than keeping it separate from the conveyor as required by the *Mehlert* reference. There is no


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permissible way to modify the *Mehlert* reference to somehow manufacture a *prima facie* case of obviousness against claim 28. That rejection must be withdrawn.

Conclusion

Applicant is grateful for the indication of allowable subject matter. For the reasons above, Applicant respectfully submits that all claims are allowable and that all rejections should be withdrawn.

Respectfully submitted,
CARLSON, GASKEY & OLDS

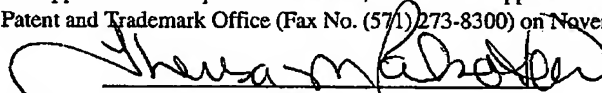
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Dated: November 15, 2007

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Theresa M. Palmateer

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